

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

**CRANSTON, RITT**

**RHODE ISLAND TRAFFIC TRIBUNAL**

**STATE OF RHODE ISLAND**

**v.**

**JOHNATHON GEORGE**

:  
:  
:  
:  
:

**C.A. No. M20-0004  
20415500079**

**DECISION**

**PER CURIAM:** Before this Panel on October 28, 2020—Administrative Magistrate Abbate (Chair), Judge Parker, and Chief Magistrate DiSandro, sitting—is Johnathon George’s (Appellant) appeal from a decision of Judge Aram P. Jarret (Trial Judge) of the North Smithfield Municipal Court, sustaining the charged violation of G.L. 1956 § 31-13-4, “Obedience to traffic devices.” The Appellant appeared before this Panel *pro se*. Jurisdiction is pursuant to G.L. 1956 § 31-41.1-8.

**I**

**Facts and Travel**

On February 1, 2020, Patrolman Justin Switzer (Patrolman Switzer) of the North Smithfield Police Department observed a motor vehicle turn left onto Park Avenue in Smithfield at a red light. (Tr. 1). Patrolman Switzer identified the driver of the vehicle as the Appellant and issued above-mentioned Summons. *See* summons 20415500079.

The Appellant contested the charged violation, and the matter proceeded to trial on July 15, 2020. At trial, Patrolman Switzer testified that “he was stopped at the red light in Smithfield in the middle lane when he observed a vehicle pass his cruiser at a visibly high rate of speed.” (Tr. 2). Thereafter, Patrolman Switzer observed “the light turn red and a vehicle approach the

intersection and proceed through the intersection to turn left onto Park Avenue.” *Id.* At that time, Patrolman Switzer activated his emergency equipment and proceeded to initiate a motor vehicle stop. *Id.* Patrolman Switzer testified that he “advised the Appellant he was stopped at the red light and watched him go through his own red light.” *Id.*

The Appellant questioned Patrolman Switzer at trial and indicated that the traffic stop was out of the officer’s jurisdiction. *See id.* at 3. The Appellant cited RIGL § 12-7-19 and asked the officer if disobeying a traffic device was an arrestable offense. Patrolman Switzer testified that it was not. *Id.* at 4. The Appellant further testified that the light was not red, but rather yellow. *Id.*

After hearing the testimony, the Trial Judge recounted the facts asserted by Patrolman Switzer and the Appellant. *Id.* at 5. The Trial Judge found the testimony of the police officer to be credible. *Id.* He found that “the officer was in a position to observe the defendant, his motor vehicle and to observe the light and change of the light at that intersection.” *Id.* at 6. The Trial Judge further found that “the officer was in a position to observe the defendant drive through the light and make a left hand turn.” *Id.* Moreover, the Trial Judge found “the police officer did have the right to make the stop where he did at the time and place.”

The Trial Judge found the Appellant guilty of the charged violation, and the Appellant subsequently filed this timely appeal.

## **II**

### **Standard of Review**

Pursuant to § 31-41.1-8, the Appeals Panel of the Rhode Island Traffic Tribunal possesses appellate jurisdiction to review an order of a judge or magistrate of the Rhode Island Traffic Tribunal. Section 31-41.1-8(f) provides in pertinent part:

“The appeals panel shall not substitute its judgment for that of the judge or magistrate as to the weight of the evidence on questions of fact. The appeals panel may affirm the decision of the judge or magistrate, or it may remand the case for further proceedings or reverse or modify the decision if the substantial rights of the appellant have been prejudiced because the judge’s findings, inferences, conclusions or decisions are:

- “(1) In violation of constitutional or statutory provisions;
- “(2) In excess of the statutory authority of the judge or magistrate;
- “(3) Made upon unlawful procedure;
- “(4) Affected by other error of law;
- “(5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- “(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.”

In reviewing a hearing judge or magistrate’s decision pursuant to § 31-41.1-8, this Panel “lacks the authority to assess witness credibility or to substitute its judgment for that of the hearing judge [or magistrate] concerning the weight of the evidence on questions of fact.” *Link v. State*, 633 A.2d 1345, 1348 (R.I. 1993) (citing *Liberty Mut. Ins. Co. v. Janes*, 586 A.2d 536, 537 (R.I. 1991)). “The review of the Appeals Panel is confined to a reading of the record to determine whether the judge’s [or magistrate’s] decision is supported by legally competent evidence or is affected by an error of law.” *Id.* (citing *Envtl. Sci. Corp. v. Durfee*, 621 A.2d 200, 208 (R.I. 1993)). “In circumstances in which the Appeals Panel determines that the decision is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record or is affected by error of law, it may remand, reverse, or modify the decision.” *Id.* Otherwise, it must affirm the hearing judge’s (or magistrate’s) conclusions on appeal. *See Janes*, 586 A.2d at 537.

### **III**

#### **Analysis**

On appeal, Appellant asserts that the North Smithfield Police Department did not provide clear and convincing evidence that he proceeded through a red light, and he did not believe that the police officer had jurisdiction to pull him over in another city. *See* Appellant's Notice of Appeal.

Pursuant to Rhode Island Traffic Tribunal Rule of Procedure 17(a) requires that the prosecution prove the violation "to a standard of clear and convincing evidence." Evidence satisfying this standard is evidence which "produce[s] in the mind of the factfinder a firm belief or conviction that the allegations in question are true." *Cahill v. Morrow*, 11 A.3d 82, 88 n.7 (R.I. 2011). Moreover, "[t]he task of determining the credibility of witnesses is peculiarly the function of the trial justice when sitting without a jury." *DeSimone Electric, Inc. v. CMG, Inc., et al.*, 901 A.2d 613, 621 (R.I. 2006) (quoting *Walter v. Baird*, 433 A.2d 963, 964 (R.I. 1981)). Thus, the Trial Judge's factual findings are entitled to great deference and not to be disturbed by the Appeals Panel, unless the Trial Judge "overlooked or misconceived relevant and material evidence or was otherwise clearly wrong." *Brown v. Jordan*, 723 A.2d 799, 800 (R.I. 1998).

Here, the Trial Judge explicitly found the testimony of Patrolman Switzer to be credible. (*Id.* at 5). Based upon the testimony, the Trial Judge determined that Appellant proceeded through a red light to turn left onto Park Avenue. *Id.* at 4. Although Appellant argued he believed the light was yellow, the Trial Judge found the officer was in the position to observe the Appellant drive through the red light and make the left hand turn. *Id.* at 5.

The Appeals Panel "lacks the authority to assess witness credibility or to substitute its judgment for that of the hearing judge" *Link*, 633 A.2d at 1348. Since the Trial Judge made factual determinations as to the credibility of the witnesses and the evidence, this Panel must give great deference to those findings. *See Brown*, 723 A.2d at 800. Accordingly, this Panel

finds that the Trial Judge's decision is not clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. *See* 31-41.1-8(f)(5).

Appellant also asserted that Patrolman Switzer did not have jurisdiction to pull him over. However, this argument is irrelevant as the statute Appellant cited, § 12-7-19, was amended in July 2016 and provides in pertinent part:

“Any member of a duly organized municipal peace unit of another city or town of the state who enters any city or town in close pursuit and continues within any city or town in such close pursuit of a person in order to stop him or her for a suspected violation of any provision of the motor vehicle code committed in the other city or town, shall be vested with all of the same authority as a member of a duly organized municipal peace unit of the city or town.”

Thus, Patrolman Switzer did have jurisdiction to pull the Appellant over.

#### **IV**

#### **Conclusion**

This Panel has reviewed the entire record before it. Having done so, the members of this Panel are satisfied that the Trial Judge's decision was not clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. *See* § 31-41.1-8(f)(5). The substantial rights of the Appellant have not been prejudiced. Accordingly, Appellant's appeal is denied, and the charged violation is sustained.

ENTERED:

Administrative Magistrate Joseph A. Abbate (Chair)

---

Judge Edward C. Parker

---

Chief Magistrate Domenic A. DiSandro, III

DATE: \_\_\_\_\_